

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**GEOTAG, INC.**

*Plaintiff,*

**v.**

**CIRCLE K STORE, INC., et al.**

*Defendants.*

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**C.A. NO. 2:11-cv-00405-MHS-CMC**

**JURY TRIAL DEMANDED**

**BURBERRY LIMITED’S ANSWER, DEFENSES AND COUNTERCLAIMS IN  
RESPONSE TO PLAINTIFF GEOTAG, INC.’S FIRST AMENDED COMPLAINT**

Defendant Burberry Limited (“Burberry”) files this answer to Plaintiff Geotag, Inc.’s (“Geotag” or “Plaintiff”) First Amended Complaint (“Amended Complaint”), and hereby states as follows:

**PARTIES**

1. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Amended Complaint and therefore denies those allegations.

2. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Amended Complaint and therefore denies those allegations.

3. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Amended Complaint and therefore denies those allegations.

4. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Amended Complaint and therefore denies those allegations.

5. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Amended Complaint and therefore denies those allegations.

6. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Amended Complaint and therefore denies those allegations.

7. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Amended Complaint and therefore denies those allegations.

8. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Amended Complaint and therefore denies those allegations.

9. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Amended Complaint and therefore denies those allegations.

10. Burberry admits that it is a New York corporation with a principal place of business at 444 Madison Avenue, New York, New York. Burberry admits that CT Corporation System is its agent for service of process.

11. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Amended Complaint and therefore denies those allegations.

12. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Amended Complaint and therefore denies those allegations..

13. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Amended Complaint and therefore denies those allegations.

14. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Amended Complaint and therefore denies those allegations.

15. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Amended Complaint and therefore denies those allegations.

16. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Amended Complaint and therefore denies those allegations.

17. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Amended Complaint and therefore denies those allegations.

18. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Amended Complaint and therefore denies those allegations

19. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 19 of the Amended Complaint and therefore denies those allegations.

20. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Amended Complaint and therefore denies those allegations.

21. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 21 of the Amended Complaint and therefore denies those allegations.

22. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Amended Complaint and therefore denies those allegations.

23. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of the Amended Complaint and therefore denies those allegations.

24. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Amended Complaint and therefore denies those allegations.

25. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 25 of the Amended Complaint and therefore denies those allegations..

26. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 26 of the Amended Complaint and therefore denies those allegations.

27. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Amended Complaint and therefore denies those allegations.

28. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 28 of the Amended Complaint and therefore denies those allegations.

29. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 29 of the Amended Complaint and therefore denies those allegations.

30. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of the Amended Complaint and therefore denies those allegations..

31. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 31 of the Amended Complaint and therefore denies those allegations.

32. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 32 of the Amended Complaint and therefore denies those allegations.

33. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 33 of the Amended Complaint and therefore denies those allegations.

34. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 34 of the Amended Complaint and therefore denies those allegations.

35. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Amended Complaint and therefore denies those allegations.

36. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Amended Complaint and therefore denies those allegations.

37. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Amended Complaint and therefore denies those allegations.

38. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Amended Complaint and therefore denies those allegations.

39. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 39 of the Amended Complaint and therefore denies those allegations.

40. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 40 of the Amended Complaint and therefore denies those allegations.

41. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Amended Complaint and therefore denies those allegations.

42. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 42 of the Amended Complaint and therefore denies those allegations.

43. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Amended Complaint and therefore denies those allegations.

44. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the Amended Complaint and therefore denies those allegations.

45. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 45 of the Amended Complaint and therefore denies those allegations.

46. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Amended Complaint and therefore denies those allegations.

47. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 47 of the Amended Complaint and therefore denies those allegations.

48. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 48 of the Amended Complaint and therefore denies those allegations.

49. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 49 of the Amended Complaint and therefore denies those allegations.

50. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 50 of the Amended Complaint and therefore denies those allegations.

51. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 51 of the Amended Complaint and therefore denies those allegations.



52. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 52 of the Amended Complaint and therefore denies those allegations.

53. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 53 of the Amended Complaint and therefore denies those allegations.

54. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 54 of the Amended Complaint and therefore denies those allegations.

55. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 55 of the Amended Complaint and therefore denies those allegations.

56. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 56 of the Amended Complaint and therefore denies those allegations.

#### **JURISDICTION AND VENUE**

57. Burberry admits Paragraph 57 of the Amended Complaint alleges that this is an action arising under the patent laws of the United States, Title 35 of the United States Code, but denies the merits of such action. Burberry also admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). Burberry admits that it has a website

and has solicited business in the district. However, Burberry denies that its websites comprise infringing methods or systems which are at least used in and/or accessible in this forum. Burberry denies the remaining allegations contained in Paragraph 57 to the extent they are directed to Burberry. To the extent the remaining allegations of Paragraph 57 are directed to other defendants, Burberry lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and on that basis denies the allegations.

58. Burberry admits that the statutory requirements for venue under 28 U.S.C. §§ 1391(b)-(c) and 1400 are met. However, while venue may be had in the Eastern District of Texas, this forum is inconvenient and burdensome for Burberry. Burberry admits that it has a website and has conducted business in the district. However, Burberry denies that its websites comprise infringing methods or systems which are at least used in and/or accessible in this forum. Burberry denies the remaining allegations contained in Paragraph 58 to the extent they are directed to Burberry. To the extent the remaining allegations of Paragraph 58 are directed to other defendants, Burberry lacks sufficient information or knowledge to form a belief as to the truth of those allegations, and on that basis denies the allegations.

### **ANSWER TO COUNT 1**

#### **ALLEGATION OF INFRINGEMENT OF U.S. PATENT NO. 5,930,474**

59. Burberry admits that United States Patent No. 5,930,474 (the “474 Patent”) is titled “Internet Organizer for Accessing Geographically and Topically Based Information,” and, that according to the face of the 474 Patent was apparently issued by the United States Patent and Trademark Office on July 29, 1999. Burberry lacks knowledge and information sufficient to

form a belief as to the truth of the remaining allegations of Paragraph 59 of Count I to the Amended Complaint, and therefore denies the same.

60. Paragraph 60 of Count I to the Amended Complaint states legal conclusions to which no response is required. To the extent that an answer is required, Burberry denies the allegations contained in Paragraph 60 of the Answer to Count 1.

61. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 61 of Count I to the Amended Complaint and therefore denies those allegations.

62. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 62 of Count I to the Amended Complaint and therefore denies those allegations.

63. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 63 of Count I to the Amended Complaint and therefore denies those allegations.

64. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 64 of Count I to the Amended Complaint and therefore denies those allegations.

65. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 65 of Count I to the Amended Complaint and therefore denies those allegations.

66. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 66 of Count I to the Amended Complaint and therefore denies those allegations.

67. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 67 of Count I to the Amended Complaint and therefore denies those allegations.

68. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 68 of Count I to the Amended Complaint and therefore denies those allegations.

69. Burberry denies the allegations contained in Paragraph 69 of Count I to the Amended Complaint.

70. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 70 of Count I to the Amended Complaint and therefore denies those allegations.

71. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 71 of Count I to the Amended Complaint and therefore denies those allegations.

72. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 72 of Count I to the Amended Complaint and therefore denies those allegations.

73. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 73 of Count I to the Amended Complaint and therefore denies those allegations.

74. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 74 of Count I to the Amended Complaint and therefore denies those allegations.

75. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 75 of Count I to the Amended Complaint and therefore denies those allegations.

76. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 76 of Count I to the Amended Complaint and therefore denies those allegations.

77. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 77 of Count I to the Amended Complaint and therefore denies those allegations.

78. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 78 of Count I to the Amended Complaint and therefore denies those allegations.

79. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 79 of Count I to the Amended Complaint and therefore denies those allegations.

80. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 80 of Count I to the Amended Complaint and therefore denies those allegations.

81. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 81 of Count I to the Amended Complaint and therefore denies those allegations.

82. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 82 of Count I to the Amended Complaint and therefore denies those allegations.

83. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 83 of Count I to the Amended Complaint and therefore denies those allegations.

84. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 84 of Count I to the Amended Complaint and therefore denies those allegations

85. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 85 of Count I to the Amended Complaint and therefore denies those allegations.

86. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 86 of Count I to the Amended Complaint and therefore denies those allegations.

87. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 87 of Count I to the Amended Complaint and therefore denies those allegations.

88. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 88 of Count I to the Amended Complaint and therefore denies those allegations.

89. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 89 of Count I to the Amended Complaint and therefore denies those allegations.

90. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 90 of Count I to the Amended Complaint and therefore denies those allegations.

91. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 91 of Count I to the Amended Complaint and therefore denies those allegations

92. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 92 of Count I to the Amended Complaint and therefore denies those allegations.

93. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 93 of Count I to the Amended Complaint and therefore denies those allegations.

94. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 94 of Count I to the Amended Complaint and therefore denies those allegations.

95. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 95 of Count I to the Amended Complaint and therefore denies those allegations.

96. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 96 of Count I to the Amended Complaint and therefore denies those allegations.

97. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 97 of Count I to the Amended Complaint and therefore denies those allegations.

98. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 98 of Count I to the Amended Complaint and therefore denies those allegations.

99. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 99 of Count I to the Amended Complaint and therefore denies those allegations.

100. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 100 of Count I to the Amended Complaint and therefore denies those allegations.



101. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 101 of Count I to the Amended Complaint and therefore denies those allegations.

102. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 102 of Count I to the Amended Complaint and therefore denies those allegations.

103. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 103 of Count I to the Amended Complaint and therefore denies those allegations.

104. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 104 of Count I to the Amended Complaint and therefore denies those allegations.

105. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 105 of Count I to the Amended Complaint and therefore denies those allegations.

106. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 106 of Count I to the Amended Complaint and therefore denies those allegations.

107. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 107 of Count I to the Amended Complaint and therefore denies those allegations.

108. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 108 of Count I to the Amended Complaint and therefore denies those allegations.

109. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 109 of Count I to the Amended Complaint and therefore denies those allegations.

110. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 110 of Count I to the Amended Complaint and therefore denies those allegations.

111. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 111 of Count I to the Amended Complaint and therefore denies those allegations.

112. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 112 of Count I to the Amended Complaint and therefore denies those allegations.

113. Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 113 of Count I to the Amended Complaint and therefore denies those allegations.

114. Paragraph 114 of Count I to the Amended Complaint does not require a response by Burberry. To the extent any response is necessary, Burberry denies it has committed any act of infringement, willful or otherwise.

115. To the extent directed toward Burberry, Burberry denies the allegations of Paragraph 115 of Count I of the Amended Complaint. With respect to the other Defendants, Burberry lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 115 of Count I to the Amended Complaint and therefore denies those allegations.

#### **ANSWER TO PRAYER FOR RELIEF**

1. Burberry denies that it infringes or has infringed, either directly, jointly, indirectly, or willfully, any valid and enforceable claim of the '474 patent. Burberry denies that Plaintiff is entitled to any of the relief requested in Paragraphs 1 through 6 of its Prayer for Relief, including injunctive relief, damages, enhanced damages, attorneys' fees, costs, expenses, interest or any other relief of any kind.

#### **AFFIRMATIVE DEFENSES**

1. Without conceding that any of the following necessarily must be pled as an affirmative defense, or that any of the following is not already at issue by virtue of the foregoing denials, and without prejudice to Burberry's right to plead additional defenses as discovery into the facts of the matter warrant, Burberry hereby asserts the following defenses. Burberry specifically reserves the right to amend its defenses further as additional information is developed through discovery or otherwise. Burberry reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses at law or in equity, that may now or in the future be available based on discovery or any other factual

investigation concerning this case, including without limitation any applicable defenses asserted by any other defendant in this action.

### **FIRST AFFIRMATIVE DEFENSE**

#### **Noninfringement**

2. Burberry does not infringe and has never infringed (literally or under the doctrine of equivalents) any valid claim of the `474 Patent under any theory of infringement, including direct infringement, indirect infringement, and willful infringement.

### **SECOND AFFIRMATIVE DEFENSE**

#### **Patent Invalidity**

3. Each and every claim of the `474 Patent is invalid for failure to comply with the requirements for patentability set forth in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, 112, and 113.

### **THIRD AFFIRMATIVE DEFENSE**

#### **Prosecution History Estoppel/Prosecution Disclaimer**

4. Prosecution history estoppel and/or prosecution disclaimer preclude any finding of infringement.

### **FOURTH AFFIRMATIVE DEFENSE**

#### **Limitation on Damages**

5. The Plaintiff's claim for relief and damages are limited at least by 35 U.S.C. §§ 286 for any alleged infringement committed more than six years prior to the filing of the complaint for infringement and 287 for failure to mark or otherwise provide notice of a patented product, system, or apparatus.

**FIFTH AFFIRMATIVE DEFENSE**

**Laches/Equitable Estoppel/Waiver**

6. Plaintiff's claims against Burberry are barred in whole or in part by one or more of the equitable doctrines of laches, equitable estoppel, and/or waiver.

**SIXTH AFFIRMATIVE DEFENSE**

**Failure to State a Claim**

7. The Complaint fails to state a claim upon which relief can be granted.

**SEVENTH AFFIRMATIVE DEFENSE**

**Costs Unavailable**

8. Plaintiff is precluded from seeking recovery against Burberry under 35 U.S.C. § 288.

**EIGHTH AFFIRMATIVE DEFENSE**

**License/Exhaustion/Implied License**

9. On information and belief, Plaintiff's claims are barred by the doctrines of license, patent exhaustion, and/or implied license.

**NINTH AFFIRMATIVE DEFENSE**

**No Injunctive Relief**

10. Plaintiff is not entitled to injunctive relief for any alleged infringement because any alleged injury to Plaintiff is not immediate or irreparable and because Plaintiff has an adequate remedy at law for any alleged injury.

**COUNTERCLAIMS**

In further response to the Complaint by Geotag, Burberry Limited (“Burberry”) asserts the following Counterclaims against Geotag.

### **PARTIES**

1. Burberry Limited (“Burberry”) is a corporation duly organized under the laws of New York with a principal place of business at 444 Madison Avenue, New York, New York 10022. .

2. On information and belief, Geotag, Inc. (“Geotag”) is a Delaware corporation with a principal place of business at 2591 Dallas Parkway, Suite 505, Frisco, TX 75034..

### **JURISDICTION AND VENUE**

3. This is an action for a declaratory judgment that Burberry does not infringe U.S. Patent No. 5,930,474 (the “’474 patent”) and that the ‘474 patent is invalid. These Counterclaims arise under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§2201-02. This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 2201, 2202, 1331 and 1338.

4. By filing the Complaint, Geotag has consented to the personal jurisdiction of this Court.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

6. In view of the filing by Geotag of this suit and Burberry’s defenses, there exists an actual and justiciable controversy between the parties regarding the validity, and alleged infringement by Burberry of the ‘474 Patent.

**COUNT I**

**Declaratory Judgment of Invalidity of U.S. Patent No. 5,930,474**

7. Burberry incorporates by reference the allegations contained in paragraphs 1 to 6 of its Counterclaims.

8. An actual controversy exists between the parties with respect to the invalidity of the '474 Patent by virtue of Geotag's complaint against Burberry.

9. The claims of the '474 Patent is invalid for failure to comply with the patent laws, including but not limited to 35 U.S.C. §§ 101, 102, 103, 112, and 113.

10. Burberry hereby seeks a declaration that the claims of the '474 patent are invalid.

**COUNT II**

**Declaratory Judgment of Noninfringement of U.S. Patent No. 5,930,474**

11. Burberry incorporates by reference the allegations contained in paragraphs 1 to 10 as though fully set forth herein. .

12. An actual controversy exists between the parties with respect to the alleged infringement of the '474 Patent by virtue of Geotag's complaint against Burberry.

13. Neither Burberry nor any part of Burberry's business infringe the '474 patent or contribute to or induce the infringement by others because Burberry does not practice each element of any of the claims of the '474 patent.

14. Burberry hereby seeks a declaration that neither Burberry nor any part of Burberry's business infringe the '474 patent or contribute to or induce infringement by others.

**DEMAND FOR JURY TRIAL**

Burberry hereby demands a trial by jury of all issues so triable in this action.

**PRAYER FOR RELIEF**

WHEREFORE, Burberry prays for the following relief:

- A. That this Court enter judgment against Geotag and in favor of Burberry on each of the claims set forth in the Amended Complaint filed by Geotag and that each such claim be dismissed with prejudice;
- B. That this Court find and declare that Burberry has not directly, indirectly, or willfully infringed any claim of the `474 Patent;
- C. That this Court find and declare that each and every claim of the `474 Patent is invalid;
- D. That this Court find and declare that Burberry has not violated any other rights of Geotag;
- E. That this Court declare this to be an exceptional case under 35 U.S.C. §285, or otherwise, and award Burberry its costs and expenses including reasonable attorneys' fees; and;
- F. For such other and further relief as the Court deems just and proper.



Dated: March 7, 2012

Respectfully submitted,

/s/ Avelyn M. Ross

Willem G. Schuurman (TX Bar No. 17855200)

Avelyn M. Ross (TX Bar No. 24027871)

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*Attorneys for Burberry Limited*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 7, 2012. Any other counsel of record will be served by first class mail on this same date.

/s/ Avelyn M. Ross